



State of Ohio Environmental Protection Agency

**Southeast District Office**

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Bob Taft, Governor  
Bruce Johnson, Lieutenant Governor  
Joseph P. Koncelik, Director

December 28, 2005

**RE: PIKE COUNTY  
SITE - MILLER SALVAGE**

US EPA RECORDS CENTER REGION 5



Mr. Fred Miller  
Miller Salvage  
P.O. Box #159  
Latham, Ohio 45656

**CERTIFIED MAIL**  
#7003 3110 0002 0027 7175

**RE: November 28, 2005 Inspection of Lapparell Road Site  
-NOTICE OF VIOLATION-**

Dear Mr. Miller:

On November 28, 2005, Ohio EPA investigated a complaint of stream pollution in Kincaid Creek and inspected your wood waste site adjacent to Kincaid Creek and located at 1617 Lapparell Road, Latham, Ohio. For a number of years, your site has received wood waste generated by and shipped exclusively from the Mill's Pride cabinet plant in Waverly, Ohio. Ohio EPA staff present for the inspection were Steve Rine, Division of Solid and Infectious Waste Management, Ryszard Lecznar, Joanne Montgomery, and Jake Greuey, Division of Surface Water, and Dave Hunt, Division of Groundwater. This inspection was in response to telephone calls from Kincaid Fish Hatchery personnel who reported brown, foamy water with high levels of ammonia in Kincaid Spring, their sole source of water supply.

On November 25, 2005, Dana Schmidt, manager of the Kincaid fish hatchery, reported to Ohio EPA that on his return to the hatchery that morning that the incoming spring water was brown, foamy, and that his testing for ammonia showed levels of 17 ppm. On November 22, the spring water had been clear and ammonia tested at less than 1 ppm. In the past, Mr. Schmidt has documented increasing ammonia levels in the spring water corresponding to releases of leachate to Kincaid Creek from the Miller Salvage site.

On November 28, 2005, Mr. Schmidt contacted Ohio EPA and reported that the condition of the spring water had worsened over the weekend, testing indicated levels of ammonia over 30 ppm, the trout in the hatchery were critically stressed and were going to be transferred to the London hatchery and that operations at Kincaid hatchery would be essentially suspended due to the contamination of the spring water.

As a part of our investigation on November 28, 2005, the above noted Ohio EPA staff visited the fish hatchery and Kincaid spring and confirmed the observations of Mr. Schmidt. We then met with you at your office. When we informed you of our findings of the contaminants in Kincaid Spring, you stated that you had just been informed by an employee that a pump had burned out over the weekend. Ohio EPA staff then proceeded to your wood waste site to conduct the inspection. During this inspection, your employee Mark Hawk stated that he had discovered the pump failure at your facility after 5:00 P.M. Saturday, November 26, 2005. The pump was used for recirculating leachate from the old leachate pond back onto the wood waste pile. Mark also said that with the pump failure the pond overtopped in three locations and released leachate from the old pond into the field below. The discharges continued until Sunday afternoon November 27 when repairs were completed and leachate recirculation resumed. He could offer no information as to why contamination was observed by fish hatchery staff on November 25.

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The following observations were made during our inspection:

The existing pond embankment had been recently regraded and additional soil had been placed on the embankment in an apparent effort to correct erosion caused by the discharge of leachate. The current leachate level within the existing pond was about a foot below the top of the dam. A large volume of leachate had overflowed the embankment into the adjacent field. Puddles of leachate remained on the out slopes of the pond embankment.

Leachate flowpaths were observed from the pond and into and across the adjacent field. This field still contains excess wood waste that has not been completely removed from the old waste footprint. The excess waste had been saturated and widespread pooling and puddles of leachate were observed throughout the field and across the field to Kincaid Creek. A sinkhole had developed at the western edge of the field adjacent to the wood line and Kincaid Creek. Leachate was observed still flowing from the field into the sinkhole. Brown leachate was observed upwelling into the adjacent stream bed from the fractured bedrock which makes up the stream bed. Ohio EPA collected samples of leachate from your facility and from several locations in Kincaid Creek for analysis.

Leachate seeps were also observed discharging into Kincaid Creek from the eastern stream bank in many locations down the entire length of the field and from numerous locations in the stream bottom. The water in the stream was discolored brown and foamy. Dead fish, tadpoles, and crayfish were observed in the stream below the leachate seeps. Evidence of recent gravel mining in the stream channel by your employees was also observed further downstream of the seeps.

The recirculation pump and sprayer were in operation at the time of inspection. Leachate was being pumped from the existing pond back onto the wood waste pile. Return leachate flow in the ditch leading back to the existing pond was measured by Ohio EPA at greater than 30 gallons per minute. At this rate, it appeared that the recirculation pump was barely keeping up with the return flow of leachate to maintain freeboard in the pond. A temporary leachate impoundment had been created along the eastern edge of the wood waste pile and was full of excess leachate. Final construction had not yet been completed on the new leachate pond.

Based upon our observations, you are in violation of the Agreed Judgement Entry Resolving the State's Motion for Preliminary Injunction (AJPI) that was filed with Pike County Court on April 15, 2005, the Consent Order Preliminary Injunction (COPI) that was filed with the Pike County Court on November 28, 2001, and applicable Ohio Administrative Code (OAC) and Ohio Revised Code (ORC) statutes as follows:

**AJPI, PARAGRAPH 5b, FILED APRIL 15, 2005**

Within ninety (90) days of approval of the PTI by Ohio EPA, Defendants shall complete construction of the new leachate collection pond in accordance with their approved PTI.

PTI # 06-7609 was approved on July 27, 2005. Construction was due to be completed not later than October 25, 2005. The failure to complete construction activities by the due date is a violation of this order. Construction of the new pond on schedule may also have prevented this overtopping and leachate discharge event from the old pond.

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**AJPI, PARAGRAPH 5j, FILED APRIL 15, 2005**

Defendants shall maintain at least ... one(1) foot of freeboard space in the existing leachate pond. Defendants shall immediately commence proper removal of leachate for authorized land application, treatment, or other permitted disposal should the freeboard space become less than ... one (1) foot in the existing pond.

The overtopping and subsequent discharge of leachate from the pond into Kincaid Creek shows that you failed to maintain the required freeboard level. You are in violation of this order. Your facility still contains excess leachate that should be removed for off site treatment to maintain the required freeboard and prevent further releases from occurring.

**AJPI, PARAGRAPH 5I, FILED APRIL 15, 2005**

Within 180 days after the effective date of this Order, the defendant shall completely remove all remaining wood waste material from the old footprint located between the new wood waste stockpile and Kincaid Creek.

All remaining wood waste has not been removed from the old footprint. Violations of this order will continue to accrue until removal of all of the remaining wood waste is completed.

**AJPI, PARAGRAPH 5m, FILED APRIL 15, 2005**

Defendants are prohibited from constructing and/or using impoundments in the waste pile for purposes of storing leachate.

The impoundment containing stored leachate along the eastern edge of the wood waste pile is a violation of this order and another indication of the excess accumulation of leachate buildup on this site. The excess leachate should be removed for permitted off site treatment and disposal.

**AJPI, PARAGRAPH 6, FILED APRIL 15, 2005**

All terms of the November 11, 2001 (sp), Consent Order for Preliminary Injunction (COPI) *not otherwise inconsistent with this Order remain binding upon Defendants.* Further, any permit(s) issued to Defendants subsequent to the entry of this order shall not negate the requirements of this order.

And

**COPI, PARAGRAPH 5m, FILED NOVEMBER 28, 2001**

Immediately cease discharging overflow from the sediment pond into nearby state waterways.

And

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**ORC 6111.04**

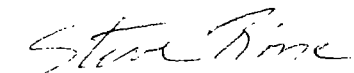
No person shall cause pollution or place or cause to be placed any... wastes in a location where they cause pollution of any waters of the state.

The overtopping and subsequent discharge of leachate from the pond into the adjacent field and Kincaid Creek are violations of the orders and the statute. As I noted during a telephone conversation with you on the morning of Tuesday, November 29, 2005, you must take all appropriate actions, including leachate removal to off site permitted treatment facilities to prevent further discharges.

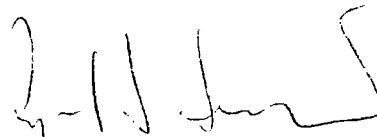
Failure to list specific deficiencies in this communication does not relieve you from the responsibility of complying with all applicable environmental regulations. This letter does not relieve you from liability for any past or present violations of the state's environmental laws.

Please provide a written response within 15 days detailing the actions taken by you and/or your employees to prevent and address the discharge of leachate from your facility and to abate the violations cited within this letter. The seriousness and severity of the ongoing violations at your facility continue to be of great concern to this Agency. Please contact me at 740-380-5213 if you have any questions.

Sincerely,



Steve Rine, R. S.  
Environmental Supervisor  
Division of Solid and Infectious Waste Management



Ryszard Lecznar  
Environmental Supervisor  
Division of Surface Water

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cc: Carl Mussenden, DSIWM-CO  
George Horvath, Assistant Attorney General  
Sandy Colegrove, Pike County Health Department  
Brian D. Serafy, Mill's Pride  
John M. Cullen, MASCO